

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Civil Action No. 04-12253-MLW

STEVEN McDERMOTT and
STACEY McDERMOTT,

Plaintiffs

v.

FEDEX GROUND PACKAGE SYSTEMS, INC.,
T.S. PRUITT, ALLEGIANCE HEALTHCARE,
INC., D. PONCE, E.W. WYLIE CORPORATION,
D.W. SMITH ARSENBERGER TRUCKING, INC.,
J.T. FOSBRINK, RYDER TRUCK RENTAL,
LORRAINE ODZANA as ADMINISTRATRIX OF
THE ESTATE OF JAMES J. ODZANA,
SHORELINE TRANSPORTATION, INC., JACYLYN
PALETTA as ADMINISTRATRIX OF THE
ESTATE OF MARIO J. CASTRO,

Defendants

**MEMORANDUM IN SUPPORT OF LORRAINE ODZANA, AS
ADMINISTRATRIX OF THE ESTATE OF JAMES J. ODZANA'S,
MOTION FOR ENTRY OF SEPARATE AND FINAL JUDGMENT**

NOW COMES Defendant Lorraine Odzana as Administratrix of the Estate of James J. Odzana ("Defendant Odzana") and moves this Honorable Court pursuant to Fed. R. Civ. P. 54(b) to enter separate and final judgment in favor of Defendant Odzana. In support of this motion, the Defendant states the following:

1. This case involves multiple defendants.
2. Plaintiff originally filed suit on October 26, 2004 against Defendants Fedex Ground Package Systems, Inc. ("Fedex") and T.S. Pruitt, the driver of the Fedex tractor-trailor. On November 17, 2006, the Plaintiffs filed a motion for leave to file an Amended Complaint to add ten new defendants, including Defendant Odzana. The decedent, James Odzana, was killed in the subject accident.

3. On August 10, 2007, Defendant Odzana filed a Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction.
4. Defendant Odzana's Motion to Dismiss was allowed on September 18, 2007.
5. Defendants Ryder Truck Rental, J.T. Fosbrink, Arsenberger Trucking Inc., and Jaclyn Paletta, also filed motions to dismiss which were granted by this Honorable Court. Upon motions, the Court entered separate and final judgment as to these defendants on November 21, 2007.
6. Pursuant to Fed. R. Civ. P. 54(b), the Court may direct entry of separate and final judgment as to or more claims or parties upon an express determination that there is no just reason for delay.
7. There exists no just reason for delay in entering judgment in favor of Defendant Odzana, as no claims remain against Defendant Odzana. Defendant Odzana would endure unnecessary hardship if forced to remain in the litigation as it continues between the remaining parties.

WHEREFORE, the Defendant requests that this Honorable Court enter separate and final judgment in favor of Defendant Odzana with respect to all claims against Defendant Odzana.

Dated: November 26, 2007

Respectfully submitted,

The Defendant,
LORRAINE ODZANA, as Administratrix
of the Estate of JAMES J. ODZANA
By her attorneys,

s/ Michele Carlucci

Maynard M. Kirpalani, BBO#273940

Michele Carlucci, BBO #655211

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CERTIFICATE OF SERVICE

I, Michele Carlucci, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the NEF on November 26, 2007.

/s/ Michele Carlucci